THE HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

TAKEN UP WRIT PETITION NO.22337 OF 2007

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Date: 19.11.2007

Between:

Smt. Peruri Hema … Petitioner

And

The Station House Officer,
Nidadavole, West Godavari District
and another. … Respondents.

ORAL ORDER: **(per A. Gopal Reddy, J)**

The telegram dated 17.10.2007 sent by the petitioner, who is the wife of the alleged detenu to the Hon'ble the Chief Justice of this Court alleging that the Sub-Inspector of Police, Nidadavole Police Station took her husband Peruri Surya Chalapathi Rao on 17.10.2007 at 5.00 a.m from her house at Rajahmundry and was illegally detained in the lock-up threatening to implicate him in a false criminal case and, therefore, she apprehends danger to his life, was taken up as a writ of habeas corpus.

In response to the rule nisi, the Sub-Inspector of Police, Nidadavole P.S, West Godavari District filed a counter-affidavit stating that on the complaint made by one Velagala Jayachandra Reddy of Nidadavole a case in Cr.No.124 of 2007 was registered for the offence punishable under Section 379

IPC in which apart from the alleged detenu four more persons are involved in committing theft of a kerosene tanker in Niadavole Town, wherein the alleged detenu is arrayed as Accused No.4. It is further averred that the alleged detenu and Accused No.5 are absconding and when the investigating officer contacted A.5 over his cell phone, the alleged detenu received and answered the call and on questioning he revealed that A.5 while going to Chennai ten days back handed over the cell phone to him and as such he has been using the cell phone. On 17.10.2007 the alleged detenu along with his advocate approached the investigating officer and after recording of the statement of the alleged detenu under section 161 Cr.P.C., the alleged detenu left the police station along with the advocate and since then he is absconding along with A.5. The other accused 1 to 3 in the crime were already arrested and orders were obtained from the jurisdictional Magistrate remanding them to judicial custody. The investigation into the crime could not be completed as the alleged detenu and A.5 who are required in the above crime are evading arrest and police are making all efforts to trace out them. The respondents, therefore, denies the detention of the alleged detenu.

Since the counter filed by the 1st respondent clearly discloses that the alleged detenu is involved in a criminal case and he was not taken into custody, there is no truth in the allegations made in the telegram sent by the petitioner that he was illegally detained by the police. However, we direct that as and when the alleged detenu is arrested in connection with the aforesaid crime, he shall be produced before the jurisdictional Magistrate, which fact shall be informed to the petitioner. The Writ Petition is accordingly dismissed.

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A. GOPAL REDDY, J

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19th November, 2007 **NOOTY RAMAMOHANA RAO, J**

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